

REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated October 10, 2006. Claims 1-14 are pending in the application. Please note that claims 1 and 13 are independent claims. Claims 1, 13 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kosterev et al. ("*Kosterev*"). Claims 1-4, 8-9, and 13-14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bell, U.S. Patent No. 4,068,125 ("*Bell*"). Claim 15 is rejected under 35 U.S.C. § 102(b) as being anticipated by Asano et al., U.S. Patent No. 4,817,413 ("*Asano*"). Claims 5-6 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bell* in view of Applicant's admitted prior art. Claims 10-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bell* in view of *Asano*. Applicant believes all pending claims are allowable over the art of record and respectfully requests reconsideration and allowance of all claims.

Claim objections

Claim 11 has been amended to depend from claim 10 and thereby correct antecedent basis. Claim 12 has been canceled, and therefore the objection thereto is now moot.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 13, and 15 stand rejected under 35 USC § 102(b) as being anticipated by *Kosterev et al.*, which is an article from Optics Letters dated November 1, 2002. Applicant notes that the present App. No. 10/517,177 claims priority to provisional application No. 60/387,488 filed on June 10, 2002 and to provisional application No. 60/389,580 filed on June 18, 2002. Thus, Applicant respectfully submits that the present App. No. 10/517,177 predates the *Kosterev* article from Optics Letters dated November 1, 2002 and respectfully requests that the rejection over same be withdrawn.

Claims 1-4, 8, 9, 13, and 14 stand rejected under 35 USC § 102(b) as being anticipated by *Bell*. Applicant notes that the tuning fork limitation from dependent claim 12 has been rolled into independent claims 1 and 13. Thus, the anticipation rejection over *Bell* has been overcome.

Claim 15 stands rejected under 35 USC § 102(b) as being anticipated by *Asano*. Claim 15 has been canceled, and therefore the anticipation rejection thereof is now moot.

Claim Rejections – 35 U.S.C. § 103

Claims 5-6 and 8 stand rejected under 35 USC § 103(a) as being obvious over *Bell* in view of Applicant's admitted prior art. Applicant notes that the tuning fork limitation from dependent claim 12 has been rolled into independent claim 1. Given that claims 5-6 and 8 depend from claim 1, the obviousness rejection over *Bell* in view of Applicant's admitted prior art has been overcome.

Claims 10-12 stand rejected under 35 USC § 103(a) as being obvious over *Bell* in view of *Asano*. Applicant notes that the tuning fork limitation from dependent claim 12 has been rolled into independent claims 1 and 13, and thus independent claims 1 and 13 likewise stand rejected as obvious over *Bell* in view of *Asano*. In response, Applicant has further amended independent claims 1 and 13 to recite that light from the light source passes between tines of the tuning fork. Support for this amendment is found in Figs. 2 and 6 of the specification. As is explained in paragraph 0053 of the specification, this is an important aspect because "the tuning fork response is highest (tuning fork is most sensitive) when the focal spot is centered between the tuning fork prongs." Applicant respectfully submits that neither the primary reference, *Bell*, nor the secondary reference, *Asano*, alone or in combination teach or suggest that light from the light source passes between tines of the tuning fork. Therefore, Applicant respectfully submits that the pending claims are allowable over the art of record.

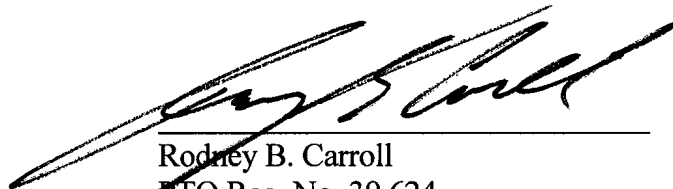
CONCLUSION

Applicant respectfully requests reconsideration, allowance of the pending claims and a timely Notice of Allowance be issued in this case. If the Examiner feels that a telephone conference would expedite the resolution of this case, the Examiner is respectfully requested to contact the undersigned.

In the course of the foregoing discussions, Applicant may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art that have yet to be raised, but which may be raised in the future.

If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Conley Rose, P.C. Deposit Account Number 03-2769.

Respectfully submitted,



Rodney B. Carroll
PTO Reg. No. 39,624
CONLEY ROSE, P.C.
P.O. Box 3267
Houston, TX 77253-3267
(713) 238-8000 (Phone)
(713) 238-8008 (Fax)
ATTORNEY FOR APPLICANT